

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**ROBBIE AUTERY and SHANE
FULMER,**

Plaintiffs,

v.

**KEVIN DAVIS, in his official capacity
as Sheriff of Chilton County, Alabama,
and individually,**

Defendant.

**CIVIL ACTION NO.:
2:08-CV-41-WC**

**NOTICE THAT CASE INVOLVES CONSTITUTIONALITY OF STATE
STATUTE**

To the Clerk of the U.S. District Court for the Middle District of Alabama:

COMES NOW the Defendant, Kevin Davis, by and through his attorney of record, and hereby gives notice to the Attorney General of the State of Alabama pursuant to Section 2403(b) of Title 28 of the United States Code and Section 6-6-227 of the Code of Alabama, 1975, of its First Amended Answer, attached hereto, which challenges the constitutionality of Act 2002-90 and also the constitutionality of the recovery of discretionary and punitive damages in this action. You are notified that the State of Alabama is not a party to this proceeding.

You are, therefore, requested to certify the foregoing fact to the Attorney General of the State of Alabama pursuant to Section 2403(b) of Title 28 of the United States Code.

/s/ C. Winston Sheehan, Jr.

C. WINSTON SHEEHAN, JR. (ASB-0613-A57-C)

Attorney for Defendant, Sheriff Kevin Davis

OF COUNSEL:

BALL, BALL, MATTHEWS & NOVAK, P.A.

2000 Interstate Park Drive, Suite 204

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Montgomery, Alabama 36102-2148

Phone: (334) 387-7680

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CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2008, I electronically filed the foregoing with the Clerk of the Court, using the CM/ECF system which will send notification of such filing to the following registered persons and that those persons not registered with the CM/ECF system were served by U.S. mail:

Hon. William E. Rutledge

Hon. Gregory F. Yaghmai

RUTLEDGE & YAGHMAI

3800 Colonnade Parkway, Suite 490

Birmingham, Alabama 35243

/s/ C. Winston Sheehan, Jr.

OF COUNSEL

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FIRST AMENDMENT TO ANSWER TO THE COMPLAINT

COMES NOW the Defendant Kevin Davis in his official capacity as Sheriff of Chilton County, Alabama, and individually, and amends his Answer to the Complaint to add the following defenses:

Defendant adopts and incorporates by reference his Answer previously filed on February 12, 2008.

FORTY-EIGHTH DEFENSE

Defendant pleads the unconstitutionality of the “Act” in that it violates the notice and publication provisions of Article IV § 106 of the Constitution of Alabama, 1901.

/s/ C. Winston Sheehan, Jr.
C. WINSTON SHEEHAN, JR. (ASB-0613-A57-C)
Attorney for Defendant, Kevin Davis

/s/ Allison Alford Ingram
ALLISON ALFORD INGRAM
Attorney for Defendant, Kevin Davis

/s/ John W. Marsh

JOHN W. MARSH

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Hon. William E. Rutledge

Hon. Gregory F. Yaghmai

RUTLEDGE & YAGHMAI

3800 Colonnade Parkway, Suite 490

Birmingham, Alabama 35243

Hon. Troy King

Alabama Attorney General

Alabama State House

11 South Union Street, Third Floor

Montgomery, AL 36130

/s/ C. Winston Sheehan, Jr.

OF COUNSEL

/s/ Allison Alford Ingram

OF COUNSEL

/s/ John W. Marsh

OF COUNSEL